

WHEN RECORDED, RETURN TO:

Kennecott Land Company
5295 South 300 West, Suite 475
Murray, Utah 84107
Attention: Senior Associate - Revenue Analyst

05-874LS

COURTESY RECORDING

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SUPPLEMENT TO AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR DAYBREAK TOWNHOME 1 PROJECT

THIS SUPPLEMENT TO AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR DAYBREAK TOWNHOME 1 PROJECT (this "Supplement") is made this ~~September~~ ^{NOVEMBER} 14, 2005, by KENNECOTT LAND COMPANY, as declarant ("Declarant") under the Amended and Restated Declaration of Covenants, Conditions and Restrictions for Daybreak Townhome 1 Project, recorded on ~~September~~ ^{OCTOBER} 19, 2005, as Entry No. 9528104, in Book 9205 beginning at Page 4743 (as amended from time to time, the "Declaration"), and is consented to by Kennecott Land Residential Development Company, a Delaware corporation ("KLRDC"), Holmes Homes, Inc., a Utah Corporation ("Holmes"), Key Bank National Association ("Key Bank"), and M&T Mortgage, a New York Corporation ("M&T").

RECITALS

- A. Pursuant to the Declaration, Declarant has established the Daybreak Townhome 1 Project (the "Project") initially consisting of 64 lots as shown on the plat entitled "DAYBREAK TOWNHOME 1 SUBDIVISION", which lots are improved with certain attached residential units called "Townhomes." The Project is located within the community commonly known as "Daybreak" located in South Jordan, Utah.
- B. KLRDC has previously recorded or is concurrently herewith recording those certain subdivision maps entitled, respectively, "KENNECOTT DAYBREAK PHASE II PLAT 3 SUBDIVISION" and "KENNECOTT DAYBREAK PHASE III PLAT 4 SUBDIVISION" (collectively, the "Plats"). It is anticipated that Townhomes will be constructed on certain of the lots located within the Plats (the "Townhome Lots"). The Townhome Lots are more particularly described on Exhibit A (the "Property").
- C. Holmes owns certain of the Townhome Lots located within the Plats and Key Bank and/or M&T have a recorded security interest encumbering such Lots. KLRDC is the owner of the remaining Townhome Lots located within the Plat.

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- D. Declarant desires to add the Townhome Lots to the Project and submit and subject the Property to the Declaration, as the terms, conditions, covenants and restrictions thereof now exist or may hereafter be amended.

NOW, THEREFORE, Declarant hereby declares the following:

1. **Definitions.** Unless otherwise defined herein, all capitalized terms shall have the meaning assigned to them in the Declaration.
2. **Submission to Declaration.** Pursuant to Article 14 of the Declaration, Declarant hereby adds the Townhome Lots to the Project and submits and subjects the Property to the Declaration, including, without limitation, all covenants, restrictions, easements, conditions, charges and liens set forth in the Declaration. KLRDC, Holmes, Key Bank and M&T hereby consent to the submission of the Property to the Declaration. From and after the recordation of this Supplement, the Property shall be held, transferred, sold, conveyed and occupied subject to the Declaration, including, without limitation, all covenants, restrictions, easements, conditions, charges, and liens set forth in the Declaration.
3. **Full Force and Effect.** The Declaration, as supplemented hereby, shall remain in full force and effect.
4. **Incorporation by Reference.** The Recitals and Exhibits to this Supplement are hereby incorporated into the Supplement by this reference.

[Signatures on Next Page]

IN WITNESS WHEREOF, as of this September 21, 2005, Declarant has executed this Supplement, and KLRDC, Holmes, Key Bank and M&T have consented to the same.

Declarant:

KENNECOTT LAND COMPANY,
a Delaware corporation

By M. Bruce Snyder
Name M. Bruce Snyder
Title V.P. Residential and Commercial Development

KLRDC:

KENNECOTT LAND RESIDENTIAL
DEVELOPMENT COMPANY,
a Delaware corporation

By M. Bruce Snyder
Name M. Bruce Snyder
Title V.P. Residential and Commercial Development

Holmes:

HOLMES HOMES, INC.,
a Utah corporation

By Patrick H. Holmes
Name Patrick H. Holmes
Title President

Key Bank:

KEY BANK, NATIONAL ASSOCIATION

By Greg Rippinger
Name Greg Rippinger
Title Vice President

M&T:
m&t mortgage Corporation

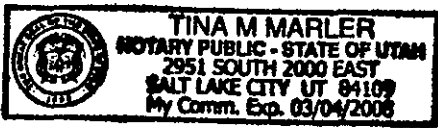
M&T, a New York Corporation

By Larry L. Haratan
Name Larry L. Haratan
Title Vice President

STATE OF UTAH)
) SS.
COUNTY OF SALT LAKE)

On September 21, 2005 personally appeared before me, a Notary Public, M. Bruce Snyder, the V.P. Residential and Commercial Development of KENNECOTT LAND COMPANY personally known or proved to me to be the person whose name is subscribed to the above instrument who acknowledged to me that he executed the above instrument on behalf of KENNECOTT LAND COMPANY.

WITNESS my hand and official Seal.



Tina M. Marler

Notary Public in and for said State

My commission expires: 03/04/2008

[SEAL]

STATE OF UTAH)
) SS.
COUNTY OF SALT LAKE)

On September 21, 2005 personally appeared before me, a Notary Public, M. Bruce Snyder, the V.P. Residential Development of KENNECOTT LAND RESIDENTIAL DEVELOPMENT COMPANY personally known or proved to me to be the person whose name is subscribed to the above instrument who acknowledged to me that he executed the above instrument on behalf of KENNECOTT LAND RESIDENTIAL DEVELOPMENT COMPANY.

WITNESS my hand and official Seal.



Tina M. Marler

Notary Public in and for said State

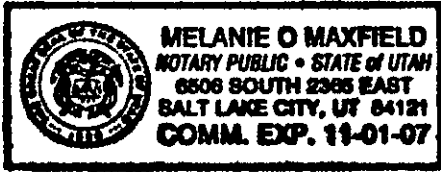
My commission expires: 03/04/2008

[SEAL]

STATE OF UTAH)
) SS.
COUNTY OF SALT LAKE)

On 9/28/05, personally appeared before me, a Notary Public, Patrick H. Holmes, the President of **HOLMES HOMES, INC.** personally known or proved to me to be the person whose name is subscribed to the above instrument who acknowledged to me that he executed the above instrument on behalf of **HOLMES HOMES, INC.**

WITNESS my hand and official Seal.



Melanie O. Maxfield
Notary Public in and for said State

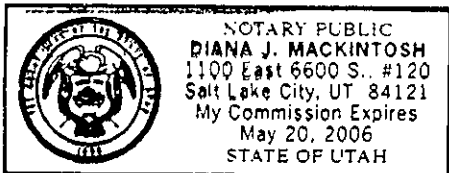
My commission expires: 11-01-07

[SEAL]

STATE OF UTAH)
) SS.
COUNTY OF SALT LAKE)

On 9/29/05, personally appeared before me, a Notary Public, Greg Ruppinger, the Vice-President of **KEY BANK, NATIONAL ASSOCIATION** personally known or proved to me to be the person whose name is subscribed to the above instrument who acknowledged to me that he executed the above instrument on behalf of **KEY BANK, NATIONAL ASSOCIATION**.

WITNESS my hand and official Seal.



Diana Mackintosh
Notary Public in and for said State

My commission expires: 5/20/06


[SEAL]

STATE OF UTAH)
) SS.
COUNTY OF SALT LAKE)

On October 3, 2005, personally appeared before me, a Notary Public, Larry Hardman, the Vice President of **M&T MORTGAGE** personally known or proved to me to be the person whose name is subscribed to the above instrument who acknowledged to me that he executed the above instrument on behalf of **M&T MORTGAGE**.

WITNESS my hand and official Seal.





Notary Public in and for said State

My commission expires: March 20, 2007

[SEAL]

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

Lots 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, and 648 of that certain map entitled "KENNECOTT DAYBREAK PHASE II PLAT 3 SUBDIVISION", according to the official plat recorded March 25, 2005, as Entry No. 9331480 in Book 2005P beginning at Page 83 in the Official Records of Salt Lake County, Utah.

Lots 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, and 300 of that certain map entitled "KENNECOTT DAYBREAK PLAT 4 SUBDIVISION AMENDING LOTS T4 AND V4A OF THE KENNECOTT MASTER SUBDIVISION #1", according to the official plat recorded on May 25, 2005 as Entry No. 9383110 in Book 2005P beginning at Page 160 in the Official Records of Salt Lake County, Utah.

Lot 235: 26-24-451-013
Lot 236: 26-24-451-012
Lot 237: 26-24-451-011
Lot 238: 26-24-451-010
Lot 239: 26-24-451-009
Lot 240: 26-24-451-008
Lot 241: 26-24-451-007
Lot 242: 26-24-451-006
Lot 243: 26-24-451-005
Lot 244: 26-24-451-004
Lot 245: 26-24-451-003
Lot 246: 26-24-451-002
Lot 247: 26-24-451-001
Lot 248: 26-24-401-014
Lot 249: 26-24-401-013
Lot 250: 26-24-401-012
Lot 251: 26-24-401-011
Lot 252: 26-24-401-010
Lot 253: 26-24-401-009
Lot 254: 26-24-401-008
Lot 255: 26-24-401-007
Lot 256: 26-24-401-006
Lot 257: 26-24-401-005
Lot 258: 26-24-401-004
Lot 259: 26-24-401-003
Lot 260: 26-24-401-002
Lot 261: 26-24-401-001
Lot 283: 26-24-428-009
Lot 284: 26-24-428-008
Lot 285: 26-24-428-007
Lot 286: 26-24-425-006
Lot 287: 26-24-428-005
Lot 288: 26-24-428-004
Lot 289: 26-24-428-003
Lot 290: 26-24-425-002
Lot 291: 26-24-428-001
Lot 292: 26-24-429-001
Lot 293: 26-24-429-002
Lot 294: 26-24-429-003
Lot 295: 26-24-429-004
Lot 296: 26-24-429-005
Lot 297: 26-24-429-006
Lot 298: 26-24-429-007
Lot 299: 26-24-429-008
Lot 300: 26-24-429-009

·Lot 604: 26-24-480-001
·Lot 605: 26-24-480-002
·Lot 606: 26-24-480-003
·Lot 607: 26-24-480-004
·Lot 608: 26-24-480-005
·Lot 609: 26-24-480-006
·Lot 610: 26-24-480-007
·Lot 611: 26-24-480-008
·Lot 612: 26-24-480-009
·Lot 613: 26-24-480-010
·Lot 614: 26-24-480-011
·Lot 615: 26-24-480-027
·Lot 616: 26-24-480-028
·Lot 617: 26-24-480-029
·Lot 618: 26-24-480-030
·Lot 619: 26-24-480-031
·Lot 620: 26-24-480-032
·Lot 621: 26-24-480-033
·Lot 622: 26-24-480-034
·Lot 623: 26-24-480-035
·Lot 624: 26-24-480-046
·Lot 625: 26-24-480-045
·Lot 626: 26-24-480-044
·Lot 627: 26-24-480-043
·Lot 628: 26-24-480-042
·Lot 629: 26-24-480-041
·Lot 630: 26-24-480-040
·Lot 631: 26-24-480-039
·Lot 632: 26-24-480-038
·Lot 633: 26-24-480-037
·Lot 634: 26-24-480-036
·Lot 635: 26-24-480-020
·Lot 636: 26-24-480-021
·Lot 637: 26-24-480-022
·Lot 638: 26-24-480-023
·Lot 639: 26-24-480-024
·Lot 640: 26-24-480-025
·Lot 641: 26-24-480-026
·Lot 642: 26-24-480-018
·Lot 643: 26-24-480-017
·Lot 644: 26-24-480-016
·Lot 645: 26-24-480-015
·Lot 646: 26-24-480-014
·Lot 647: 26-24-480-013
·Lot 648: 26-24-480-012